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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

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JUSTIN OLSEN,)
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Plaintiff,)
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v.) Case No. 4:11-cv-00015-RRB
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)
ALASKA TEAMSTER-EMPLOYER WELFARE)
PLAN, and THE BOARD OF TRUSTEES,)
)
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Defendants.)
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DEFENDANTS' MOTION TO DISMISS NON-ERISA CLAIMS

Defendants Alaska Teamster-Employer Welfare Plan and Board of Trustees respectfully submit this Motion to Dismiss certain claims, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Rule 7.1(a) of the Local Rules for the District of Alaska. Defendants seek dismissal of the following claims as not permitted in this action under the governing Employee

Retirement Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*: (1) pain and suffering, emotional distress, and loss of consortium damages; (2) breach of contract; (3) breach of fiduciary duty and structural conflict of interest; and (4) penalties with respect to the submission of Plaintiff’s claim for benefits on or about March 31, 2010.

This motion is supported by the accompanying Memorandum and the Declaration of Rose Kalamarides.

DATED this 27th day of December, 2011, at Seattle, Washington.

By: s/ Michael P. Monaco

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CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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s/ Michael P. Monaco